

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JULY 28, 2006
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ron Agor
Mr. Jerry Edlao

Mr. Tim Johns
Ms. Taryn Schuman
Mr. Sam Gon III

STAFF

Mr. Paul Conry, DOFAW
Mr. Sam Lemmo, OCCL
Ms. Dawn Hegger, OCCL

Mr. Russell Tsuji, Land
Ms. Tiger Mills, OCCL
Ms. Athline Clark, DAR

OTHERS

Mr. Vince Kanemoto, Deputy Attorney General
Mr. Kimokeo Kapahulehua, F-2
Mr. Rusty Mau, F-2
Kendall Struxovess, F-2
Mr. Tom Staton, D-4
Mr. Patrick McNulty, K-2
Ms. Dawn Chang, K-1

Mr. Pepe Trask, F-2
Mr. Kawika Kapahulehua, F-2
Ms. Deena Dray, D-3
Ms. Zeninia Kapahulehua, F-2
Ms. Lani Stark, D-2
Mr. Mike Moberry, K-3

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of July 13, 2006

Unanimously approved as submitted (Johns, Gon)

Item A-2: Minutes of July 14, 2006

Paul Conry noted some wording errors in the summary of Item D-9 of the minutes.

The Board:

1. Amendment to Item D-9 of minutes

“Paul Conry: DOFAW is agreeable to take over the management responsibility for the cultural, [~~environmental~~] economic, and ecological aspects of the marsh, but they lack the expertise and capacity to deal with flood control management, therefore, are in agreement to have [~~that shared~~] the responsibility stay with the County...”

Unanimously approved as amended (Johns, Edlao).

- Item M-1: Issuance of a Revocable Permit to Rebecca’s Fine Collections, Inc., DBA R. F. C. Group, Keehi Industrial Lots, Kalihi-Kai, Honolulu, Oahu. (DOT)**
- Item M-2: Issuance of a Revocable Permit to Kong Enterprises, Inc., Keehi Industrial Lots, Kalihi-Kai, Honolulu, Oahu (DOT)**
- Item M-3: Issuance of a Master Lease, FAA Agreement #DTFA08-03-1-22327 Federal Aviation Administration Kalaeloa Airport**
- Item M-4: Issuance of a Revocable Permit to Lincoln Timothy Saito, DBA Kokua Recycle, Keehi Industrial Lots, Kalihi-Kai, Honolulu, Oahu. (DOT)**

Unanimously approved as submitted (Johns, Schuman).

- Item F-2: Request for authorization to issue one (1) Northwestern Hawaiian Islands (NWHI) Native Hawaiian Activity Permit of Research Monitoring, and Education Activity Permit to Leonard Kimokeo Kapahulehua of the Hawaiian Outrigger Canoe Voyaging Society for a Canoe Voyage from Mokumanamana to Laysan Island Valid for the Month of August 2006.**

Ms. Athlene Clark, Administrator of the Aquatic Resource Division, gave a summary in which she stated that the voyage will have an escort vessel and an outrigger canoe with 18 paddlers who will exchange seats once every hour to paddle continuously from Mokumanamana to Laysan Island, which would take approximately 90 hours. Due to the new permit review process, staff has put together a Native Hawaiian Culture Advisory Group made up of practitioners and brought this permit to the group to ask for their recommendation. Staff felt that they did not have the proper expertise to make the decision on a cultural access voyage therefore they had the cultural group make the final determination. The Cultural Working Group’s final recommendation was they did not feel that this qualified as a native Hawaiian access permit. This is because many of the participants on the voyage have not gone through the same training that the applicant has had. Staff also looked at different alternatives in which this permit could be granted. It does not qualify as a special activity permit because under the regulation, a special activity permit is granted for the purposes of resource management or to enhance/benefit

specific resource management activities and the outrigger paddling would not do so. Staff recommends that the application be potentially based on education access permit pending additional information on specifically on what they would do to qualify for education access. Fish and Wildlife would not be issuing a permit because they would not be entering in 10 fathoms of water or shallower and NOAA has not yet issued a permit. If an education permit was granted it would have to be granted under a conditional basis pending approval by NOAA and pending receipt of all information in writing.

Dr. Kamana'opono Crabbe spoke on behalf of the cultural group. They felt that the applicant didn't meet the goals of the native Hawaiian access permit. Some of their concerns were that, one, the precise goals and purposes of this project is not clearly stated as it relates to specific cultural and/or religious ceremonies or customs, as well as canoe voyaging as an authentic practice that was conducted up in the Northwestern Hawaiian Islands. Through their research, documentation has suggested and indicated that the primary mode of traveling and transportation up to the Northwestern Hawaiian Islands was double hulled canoes. Also it was not clearly stated whether this was an excursion for recreation or if it is based on a specific function or purpose for cultural reasons. Another concern was that they don't want types of activities that they feel is a trend now such as ecotourism or recreational types of activities that come under the guise of using native Hawaiian. Based on their evaluation and assessment of all the materials submitted, they would like to recommend denying the application under the native Hawaiian permit application process. In regards to their opinion on approving the application as an educational access permit, they feel that it is unknown or questionable about what educational materials were produced and who they were shared with. If they (the Voyaging Society) could develop a plan that clearly states what they plan to document and how it is put into some kind of educational curriculum or informative documentary, they wouldn't be opposed to it, but haven't seen any documents of yet.

A representative from the Office of Hawaiian Affairs (OHA) stated that they are in support of the role that the Native Hawaiian Advisory group plays in reviewing permits.

Pepe Trask, board member the Hawaiian Outrigger Canoe Voyaging Society, stated that their purpose is to ask the board for its blessing to travel from Kauai to Mokumanamana and then paddle from there to Laysan; from August 5th to August 16th. He then gave some background on the Voyaging Society in which he stated that it was started by Kimokeo Kapahulehua in 2003. The purpose of their organization is to perpetuate the Hawaiian culture of outrigger canoe voyaging through education. Their goal is to paddle the entire Hawaiian Archipelago (1500 miles) from the Big Island to Kure. They started in 2003 when they crossed the Alenuihaha Channel, Kaiwi channel, and the Kauai Channel. In 2004, they paddled from Kauai to Nihoa and in 2005 they motor sailed to Nihoa and then paddled to Mokumanamana. This year they would like to travel from Kauai to Mokumanamana and then paddle to Laysan and in 2007 they are looking to paddle from Laysan to Kure. They are made up of two crews, 16 paddlers, which will rotate every hour. There is an escort boat, American Islander, which is used to provide them with food and water/hydration, safety purposes, navigation, accommodations, and to carry the support crew. Besides the 16 paddlers, there are four support crew members, a full time

video photographer, a full time journalist, and two support staff. The canoe is 44 feet with yellow, red, and blue paint to maximize visibility. In terms of safety, there is a zodiac (carries seven people) that will be trailed behind the escort boat, they have flares, radars, and glow sticks for the individual paddlers, a radar reflector on the canoe, medical case, and heart difibulator. The canoe crew will not be doing any of the navigation; rather they will follow the escort vessel (100 yards in front of the canoe) that will stop every hour to switch out paddlers; six paddlers in, six paddlers out. The ages of the crew members range from 22 years to 62 years old; both men and women. The paddlers come from Maui, Oahu, Molokai, Kauai, and California. Kimokeo Kapahulehua is a practitioner of Hawaiian culture of blessings, so there will be the blessing of canoes, the escort boat, crew, and food, both prior to launching, during the entire voyage, any stops, and on the return. There is no desire to land or gather any of the resources. They are registered as a non-profit organization and are funded by private donations and individual payments. Cost of this trip is estimated at \$100,000.

In response to questions from the board about the possibility of being considered under an educational permit, Mr. Trask stated that the goal of this organization is to educate others about what they see when they go out on these voyages; that is why they have hired a full time photographer and journalist. There are also two dvds that were made during their trips to Nihoa and Mokumanamana the years before and they would be glad to release them for DLNR or whoever else's use. They would also be willing to make presentations at schools, the university, and at other cultural events, etc.

Kawika Kapahulehua, uncle to Kimokeo and once a paddler for the Hokulea, believes that this organization will be the ears, the eyes, and the voice of their ancestors because they will be going up there (to the NWHI) to see what is happening. They will be able to tell us about the debris that needs to be cleaned up.

Kendall Struxvess is apart of the organization and is in support of this voyage.

Kimokeo Kapahulehua, founder of the Hawaiian Outrigger Canoe Voyaging Society, gave some background on his training of the protocol for the blessings and said that those who helped to train him made sure that the protocol was set right from when they first started the voyage from the Big Island. He states that the voyage helps to teach about the Ahupua'as and for people in their organization to know about the sources that we have and how to protect them. He and the rest of the organization are very willing to share the information that they have already gathered and that they will gather and reiterated that none of it is for profit. He has made sure that the paddlers who go on these voyages know that spear guns and the like are not allowed, but they do have snorkeling equipment to hook the two boats up together. He also stated that they were never planning to go on the islands because they didn't want to be an impact on any of the islands and any of the environmental or cultural resources.

Zenibia Kapahulehua, sister of Kimokeo, a teacher in the Hawaiian emersion program, testifies that this voyage will have an educational aspect. She has been a teacher for the past 25 years as a part of the Department of Education (DOE). For the last couple of

years, she has used the journeys in her class. She has used the map of all the islands and has taught her children that they have traveled to all the different islands and have done it by canoe. She also teaches her children how they travel by the stars and how they look at the stars. Even though this organization is not using it for navigation, her uncle, Kawika Kapahulehua used it for his travels on the Hokulea. They look at all the stars from January through December and teach them which star to travel by. She has already included this upcoming voyage in her lesson plans for this upcoming school year. Her and her students will follow the Voyaging Society on their trip. Come August she will be plotting on the map where Kimokeo and the others are so that her students may follow the trip there and back. She is a part of the educational component of this trip. She is willing to write up lesson plans and fax them to the Board.

Cha Smith (written testimony also provided), representative from Kahea, the Hawaiian Environmental Alliance, stated that they had found some problems with this applicant's application. One problem was that when she googled this canoe club, she found them on a sports page as an attempt to settle a distance record. She feels there is a lack of preparation and lack of understanding of the distribution of an educational program, the development of an educational program in terms of having partners to help with the distribution and building of curriculum, and having a whole system set up. She is not convinced that this is an educational trip and that there will be a significant value added to the people of Hawaii. She feels that access the NWHI need to be scrutinized because every voyage that goes up there is a threat to this resource.

Aulani Wilhelm, NOAA's acting superintendent for the NWHI Marine National Monument believes that there is good intent in the application, but unsure if they meet all the requirements needed to satisfy both the State's requirements and the Federal requirements. She views this as a precedent for future permit applicants states that even though it is unsure if State waters are to be included in the monument, both sets of requirements should be taken into account. She suggested that perhaps the organization pushes back the departure date to allow the different organizations to work with them so that they can meet all the criteria and so that the educational requirements are satisfied.

Rusty Knolls, Vice President of American Marine Services Company, stated that the American Islander (the escort vessel) is a US Coast Guard certified vessel and meets all federal regulations. They are familiar with the area and have done three emergency trips to the area. Upon response on whether the trip could be done without discharge, he answered that it cannot be done, not with black water. It was also brought up that monument ruling for black water discharge is 50 miles from the site, rather than outside state waters, but is unknown at this point if there is a vessel with this type of capacity.

Written Testimony Provided By:

Trisha Kehaulani Watson, The Hawaiian Cultural Working Group, James E. Coon, Jamie Woodburn, Matt Muirhead, Stephanie Fried, and Clyde Namu'o

The Board:

Final Decision by the Board:

“Issue an educational access permit conditional on working with staff to submit a full and clear expression of the educational activities and products and on obtaining a similar permit from NOAA. Also for Staff to work with NOAA to confirm that the educational aspect meets the criteria for the educational permit for NOAA and the Presidential Proclamation as well.”

Unanimously approved as amended (Gon, Johns).

Item F-1: Request for Authorization to Enter into a DLNR/UH Contract for a Research Project in the Long-Term, Wide-Range Movement of Adult Surgeonfish Within the Fishery Replenishment Network in West Hawaii (\$45.271), to be Conducted From August 1, 2006 Through August 31, 2007.

Unanimously approved as submitted (Johns, Agor)

Item D-4: Department of Hawaiian Home Lands, by its Hawaiian Homes Commission, Requests the Fee Simple Conveyance of State-owned Land Situate at Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-08: 10, 81, 91 and 92. (SUPPORT BRANCH/Gary).

Mr. Russell Tsuji, Administrator of the Land Division, gave some background in which he states that the Department of Hawaiian Homelands (DHHL), for a transfer of lands, roughly about seven acres of agricultural land in Waimanalo, for their housing project.

Tom Staton (also provided written testimony), is concerned with the loss of agricultural land and the future of farming in Waimanalo. The area being looked at is comprised of highly fertile soil, the land is flat, and there is good sunlight. Therefore, he wanted this land to be auctioned off for farming rather than being used for DHHL since there are limited agricultural lands in Waimanalo.

Written testimony provided by Dean Okimoto.

Unanimously approved as submitted (Schuman, Edlao).

Item K-3: Time Extension Request to Extend the Construction Period for an Additional Two Years for Conservation District Use Permit (CDUP) MA-2705 for the Advanced Electro-Optical System (AEOS) 8- Meter Class Telescope and Related Facilities Located at the Haleakala High Altitude Observatory Site, Waiakoa, Papaanui, Makawao, Island of Maui, TMK: (2) 2-2-007:008.

Unanimously approved as submitted (Edlao, Johns).

Item K-1: Conservation District Use Application (CDUA) OA-3360 for Sandwich Isles Communications, Inc. to use Sandy Beach Park on O`ahu as a landing site for a submarine fiber optics cable, TMK: (1) 3-9-015:001 and in state submerged waters off of TMK (1) 3-9-012

Mr. Sam Lemmo, Administrator to the Office of Conservation and Coastal Lands (OCCL), gave some background on the application in which he stated that this is the last element of the submarine fiber optics telecommunications project, sponsored by the Department of Hawaiian Homelands (DHHL). They had received a permit from OCCL to directionally drill through Sandy Beach Park, the offshore area. The original permit expired before they started construction, therefore staff is asking for a reauthorization of the permit subject to the same conditions imposed by the first permit.

Unanimously approved as submitted (Gon, Johns).

Item K-2: Conservation District Enforcement File No. OA-06-32 Regarding Alleged Unauthorized Construction of Rock Walls Within the Conservation District, Submerged Land Located at Oneula Beach, Ewa, Island of Oahu, Makai of TMK:(1) 9-1-028:001

Mr. Lemmo gave some background information on the situation in which he stated that the wall was built by Patrick and Margaret McNulty. OCCL had received a report of an unauthorized construction of the shoreline area. A site visit was done on November 4, 2005 and it was noted that there was a newly constructed, single family residence and newly constructed shore, perpendicular walls running down the sides of the property boundaries and the walls extended into the conservation area. OCCL sent its shoreline experts to take a look at it and it was felt that the wash of the waves was above the most seaward point of the seawalls. They then issued a cease and desist order and so did the City and County. He stated that one of the major elements of COEMAP, which was adopted in 1999, was a no tolerance policy for unauthorized shoreline structures and the board adopted a position that for any such structures built after 1999, the policy would be a summary removal. Based on the preceding analysis and based on the board's no tolerance policy, staff is recommending that land owner be fined \$2,000 for the violation, \$200 in an administration cost, and that the wall must be removed within 30 days and within 45 of that they would go out and ground treat it. Upon asking for clarification from the Board, Mr. Lemmo stated that approximately a couple feet of the wall is within the conservation zone and only that part would need to come down. If that is the decision of the board, OCCL would send out their shoreline specialists out to do an on the ground delineation and tell them to remove the portion seaward of a certain mark (wherever they would decide was the shoreline) and then everything would be okay.

Mr. Patrick McNulty, applicant, stated that they had put in a permit to build a perimeter rock wall. He and his wife had the contractors start on the front portion of the wall based on the assumption that the permit would be approved. He recognized that the lots

neighboring his both had seawalls further out than his, but he mentions that he was told that both were grandfathered in due to the date they were built (before 1999). The problem is that while the McNulty's seawall stops at the vegetation line, their neighbors on the Waianae has a rather large seawall and has built a gate into their cyclone fence (which runs down the sides of the property) which they use to access the beach and they end up crossing into the McNulty's property. They are the main people who are complaining because the McNulty's are cutting off their access to the beach even though they were the ones who chose to build the seawall and there's a public access just a few lots down. There were barbeque pits on the beach in front of his property, from the neighbors, and a large metal dock that he was told to remove. His main point for building the perimeter wall was to safeguard his property, keep trespassers and his neighbors from coming on his property, and cosmetics. He pleads ignorance on his part and there was no shoreline certification because his house is built 55 feet back from the shoreline rather than only the required 40 feet back which therefore makes him exempt from having to have a shoreline certification done. However he believes that there was one done earlier and that there was a metal pin on one side of the property which he thinks marked the shoreline in 1987. He would have taken action sooner if the letter he received back in November didn't give him the option of deferring the matter to the board. He sent everyone the paperwork and chose the option of coming to the board because he wanted to make sure that he couldn't leave the wall. Because of this infraction, it is holding up the rest of the construction on the property therefore he is willing to do whatever is needed to be done.

Unanimously approved as submitted (Johns, Schuman).

Item D-2: Rescind Prior Board Action of December 13, 2002 (Item D-19), Related to the Direct Issuance of Non-Exclusive Easement B to Lani Stark for Access and Utility Purposes, Honopou, Makawao, Maui, TMK: (2) 2-9-03:20 por. (MDLO/Daniel)

Mr. Russel Tsuji gave some background information in which he states that Lani Stark's property is private property that has Kuliana status. Because there was originally no access to the property, the board issued easement A for access for free. Then either she or the previous owner requested easement B. The explanation for needing easement B was that they were going to build a second dwelling on the property. Easement A can service the entire property so staff is asking the Board to rescind its prior Board action on easement. The reason is because there have been various violations, one being that there never was a second dwelling built and Lani Stark is using her property for ecotourism. The purpose of easement B was for personal use, a second dwelling, and in the prior Board submittal (in 2002), and exemption was claimed on chapter 343 claiming there would be minimal effect. However what has been happening is that due to her commercial agricultural operation, there has been a lot of traffic and complaints being filed. Staff is concerned that the 343 exemption is no longer valid based on the current use (commercial or agricultural tourism) which would create a more adverse environmental impact. There has been evidence of unauthorized grading on state lands which are currently encumbered to Mr. Lafayette, unauthorized encroachments on to

state lands encumbered by Mr. Lafayette, which include unauthorized parking and portable toilets on state property. There are unpermitted stream divergence (confirmed with the Commission on Water Resource Management (CWRM)) and unpermitted electrical lines which are deemed unsafe. The violations are the basis for the rescission. Therefore staff is recommending the rescission of easement B even though it is not formally documented.

Lani Stark, applicant, says that without easement B, because of the steep terrain, it makes it impossible for her to access the sides, lower, and back portions of her gardens. There are small trails that have access to these gardens, but are not big enough for her and the staff to get agricultural tools down there (i.e. lawn mowers). Board member Edlao brings up the fact that easement B was not meant for her to access her gardens, but for a second dwelling. Her response is that she is still planning on building the second dwelling, but there were situations that prevented her from doing so as of yet. She wants to do whatever she needs to do to be in compliance with the state. She has already taken care of the electrical lines and is now up to code with the county, the grading of the road has been repaired and replaced, and she has also removed the portable toilet. In regards to the road, she was told by Milton Arakawa, of the county, that it was an abandoned government road and that they would be liable if they didn't grade it and take care of it because they were experiencing flood and erosion problems. She also does have water rights to the stream because she checked the deed to the property and from her understanding, that it was allowable by law for her to use that water to irrigate her gardens when there were droughts.

There are questions from the Board in regards to her access to her property in which she answers that while easement A does allow her access to her property, it does not allow her access to the lower and backsides of her property. According to Daniel Ornellas, the Maui District Land Agent, the main trail that she refers to is easement B, which is a 12 foot drive way, and the other trails are about 46 feet wide gravel pathways and there are other pathways that lead up and over state lands to where the waterfall is. Chairperson Young brings up the point that it is her land and that she is responsible for the access to other parts of her land, the State's responsibility is to provide her access to her property, not within her property, and the State does so with easement A. She is allowed to grade on her own property and create other roadways; however her financial situation doesn't allow her to do so. The biggest problem is that she cannot care for her plants in the above mentioned sections of her property and this is where most of her income is generated from.

The suggestion from the Board is for her to resubmit an application for the uses that she is doing now or for a second dwelling when she has the plans for it. If she was to reapply for the use of easement B for residential purposes, it would be about three months before it came back to the Board or six to eight months if she was to reapply for her current use.

Board member Edlao suggested that perhaps the Land Division would consider a recommendation such as allowing Lani Stark access to maintain (fertilizing, light work, etc.) her gardens; no commercial activity allowed. In conjunction with this, she would need to apply for the use of the easement for her gardens. If there is any evidence or sightings that she is doing anything other than caring for the plants there will be a cease and desist of the easement.

The Board:

Approved Staff's Recommendation, but added the following new conditions:

"3. Provided however, the effective date of the rescission of the prior Board action that will effectively terminate any interest in and rights to Easement B shall be deferred for six (6) months on the following conditions: (a) Lani Stark may only use Easement B for access to her private property solely for taking care of and maintaining her garden and plants, provided however, only Lani Stark and her four (4) employees may use Easement B for the aforesaid limited purpose of taking care of and maintaining the garden and plants; (b) Lani Stark must immediately cease and desist using Easement B for commercial, agricultural tourism or any other purpose except as stated in the aforesaid condition (a); (c) Easement B shall not be used for any purpose other than as stated in the aforesaid condition (a); (d) Lani Stark must execute the department's standard right-of-entry that contains, among other provisions, indemnity and insurance provisions, and the purpose of the right-of-entry shall be limited to the aforesaid condition (a); (e) Lani Stark shall remove all of the unauthorized encroachments described in Staffs' Submittal, and remedy or remove the other violations (including but not limited to the unauthorized and unpermitted grading outside of Easement B area, the unauthorized and unpermitted placing of electrical lines outside of Easement B area as described in Staffs' Submittal and the unauthorized and unpermitted stream diversion crossing over State lands); (f) Lani Stark may install a gate at the entrance of Easement where a fence currently exists, with the understanding that the gate will allow Lani Stark to access, and provided further, no other removal of fencing placed on the State lands by Permittee Lafayette Young shall be removed; (g) Lani Stark shall immediately complete and submit an application for Easement B and describe the true and intended purpose and use of Easement B; and (h) such other terms and conditions as may be prescribed by the department with the approval of the Chairperson.

Unanimously Approved As Amended (Edlao, Johns).

Member Schuman recused herself

Member Gon recused himself

Item: D-3: Mutual Cancellation of General Lease No. S-4411 and Issuance of a 30-year Direct Lease to the Diamond Head Theatre, Inc. for Production of Live Theater and Allied Purposes, including Education in the Theatre Arts Purposes, Honolulu, Oahu, TMK: (1) 3-2-30:01. (ODLO/Robert)

Member Tim recused himself

Chairman Young had some questions in regards to the recommendation on the rent. He would rather just have a fixed rent at \$480 per year. Mr. Tsuji said that it would be difficult because the applicant does short term rentals out to both non-profit and for-profit entities and the for-profit entities is up to \$1,200 a day. Current rent is about approximated to about \$4,600 a year and this lease was issued directly without an auction.

But because they are canceling the old lease and creating a new one, they have the right for direct negotiation with out being subjected to an auction. Chairman Young's suggestion is to have the rent fixed at nominal (\$480) and in the event that there is any subletting, a formula can be figured out on the subletting. Mr. Tsuji is saying then to take 50% of what the applicant makes off of subletting minus allowable deductions. The applicant uses the rent from the subleases to pay for the building maintenance and would charge their subleases less than \$480. Right now the State gets 10% of fair market value or 10% of net receipts. The agreement reached becomes \$480 plus 10% of what they are charging the subleases.

In reference to the term of the lease, Deena Dray, applicant, brought up the fact that the building is old and in need of some renovations. Staff recommendation is for a term of 30 years with the option to extend up to 65 years. However, Ms. Dray is under the impression that the longer the time period, perhaps more people will be willing to invest. Therefore she would rather have a 40 year term with the option to extend for an additional 25 years.

The Board:

Amendment to recommendation 3.B:

~~["The rent under the new lease shall be determined by an independent appraisal using the formula of 10% of the fair market rental value, or 10% of the net receipts, whichever is greater; rental reopening to occur every ten (10) years."]~~

"The rent under the new Lease shall be set at \$480.00 per annum and 10% of the gross rental receipts received by DHT when it rents out the Diamond Head Theatre facilities to third parties."

Amendment to recommendation 3.C:

~~["The application of the rent participation formula of 50% of the sublease rents [less certain allowable dedecuation as stated in the Sublease Rental Participation Policy, Exhibit D, as may be amended form time to time] that exceed the rent paid by the DHT to the State under the new lease.]~~

"The term of the new Lease shall be for forty (40) years, with an option to extend for an additional twenty-five (25) years upon such terms and conditions as may be negotiated and agreed upon by the Board and DHT."

Approved As Amended (Gon, Edlao).

- Item D-1:** Amend Prior Board Action of February 28, 1986 (Agenda Item F-13) Request for Direct Sale of Easement to Edward Lee for Access Purposes at Kaimu, Puna, Hawaii, TMK (3) 1-2-08:08 (HDLO/Gordon)
- Item D-5:** Amend Prior Board Action of January 24, 2003, under Agenda Item D-6, for Grant of Term Non-Exclusive Easement to Edwin Lau, Kaneohe, Oahu, TMK: (1) 4-6-01:27 seaward (ODLO/AI)
- Item D-6:** Amendment to Prior Board Action of September 13, 1996, Agenda Item D-41, Set Aside to City and County of Honolulu, Board of Water Supply by Governor's Executive Order for Well Purposes, Together with a Waterline Easement at Maakua, Hauula, Koolauloa, Oahu, TMK: (1) 5-4-05:01 & 02 (ODLO/AI)

Unanimously approved as submitted (Johns, Gon).

- Item C-1:** Request for Approval of a Memorandum of Understanding (MOU) Between the 50th Space Wing, Schriever AFB, Colorado, U.S. Department of the Interior and the State of Hawaii, Department of Land and Natural Resources for a Flora and Fauna Conservation Program for the Kaena Point Tracking Station.
- Item L-1:** Approval for Award of Construction Contract – Job No. H10C657, Kokee State park, New Comfort Station at Kalalau Lookout, Waimea, Kauai, Hawaii.
- Item L-2:** Approval for Award of Construction Contract – Job No. H10C663A, Haena State Park, New Comfort Station and Other Improvements, Haena, Kauai, Hawaii.
- Item L-3:** Approval for Award of Construction Contract – Job No. H10C659A, Wailua River State Park, New Comfort Station at Opaekaa falls, Wailua, Kauai, Hawaii.
- Item L-4:** Permission to Hire Consultants for DLNR CIP Projects.
- Item L-5:** Approval for Award of Construction Contract – Job No. H10C623A, Palaau State Park Comfort Station Replacement, Molokai, Hawaii.
- Item L-6:** Approval for Award of Construction Contract – Job No. B75C071B, Replacement of Finger Piers, Waianae Small Boat Harbor Waianae, Oahu, Hawaii.

- Item L-7:** **Approval for Award of Construction contract - Job No. 500BH42C, Demolition, Debris Loading, Hauling and Disposal at TMK: (3) 7-1-001:006 Puu Waawaa, North Kona, Hawaii.**
- Item L-8:** **Approval for Award of Construction Contract – Job No. B31XM82A, Manele Small Boat Harbor Ferry System Improvements, Manele, lanai, Hawaii and Job No. J00CB31A, ADA Barrier Removal, Manele Small Boat Harbor, Lanai, Hawaii.**
- Item L-9:** **Approval for Award of Construction Contract – Job No. B76DO70B, Haleiwa Small Boat Harbor Improvements to Existing Piers Haleiwa, Oahu, Hawaii.**
- Item L-10:** **Certification of Election for Windward Oahu Soil and Water Conservation District Directors.**
- Item L-11:** **Authorization to Execute Amendment No. 1 to the Agreement Between the Department of Army and the Department of Land and Natural Resources For the Ala Wai Canal Project (Watershed) Feasibility Study, Honolulu, Oahu, Hawaii.**

Unanimously approved as submitted (Johns, Edlao).

There being no further business, Chairperson Young adjourned the meeting at 1:05 p.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Lauren Yasaka

Approved for submittal:

PETER T. YOUNG

Chairperson
Department of Land and Natural Resources